

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

.....X
PATRICIA COHEN,

Plaintiff,

-against-

STEVEN COHEN, DONALD COHEN, and
BRETT LURIE,

Defendants.
.....X

No. 09 CV 10230 (LAP)

ECF Case

ORAL ARGUMENT REQUESTED

**DECLARATION OF MARTIN KLOTZ IN SUPPORT OF
DEFENDANTS MOTION FOR SUMMARY JUDGMENT**

I, Martin Klotz, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a partner with the law firm of Willkie Farr & Gallagher LLP, counsel for Defendants Steven Cohen and Donald Cohen ("Defendants") in the above-captioned action. I submit this declaration in support of Defendants' Motion for Summary Judgment, dated September 18, 2015.

2. Annexed hereto as Exhibit 1 is a true and correct copy of the Third Amended Complaint filed by Plaintiff Patricia Cohen ("Plaintiff") in *Cohen v. Cohen et al.*, No. 09-cv-10230 (S.D.N.Y.) ("this action") on October 2, 2013.

3. Annexed hereto as Exhibit 2 is a true and correct copy of excerpts of the transcript of the January 15, 2015 deposition of Patricia Cohen taken in this action.

4. Annexed hereto as Exhibit 3 is a true and correct copy of the Lease of a Condominium Unit between Steven Cohen and Alexandra Cohen, Landlords, and Patricia Cohen, Tenant as of September 1, 2001.

5. Annexed hereto as Exhibit 4 is a true and correct copy of the Stipulation of Settlement and Separation Agreement Between Patricia Cohen and Steven A. Cohen, dated December 15, 1989.

6. Annexed hereto as Exhibit 5 is a true and correct copy of excerpts of the transcript of the December 3, 2014 deposition of Donald Cohen taken in this action.

7. Annexed hereto as Exhibit 6 is a true and correct copy of the Civil Docket for this action as of September 16, 2015.

8. Annexed hereto as Exhibit 7 is a true and correct copy of excerpts of the transcript of the July 30, 2015 deposition of Patricia Cohen taken in this action.

9. Annexed hereto as Exhibit 8 is a true and correct copy of the Certificate of Incorporation of SAC Trading Corp., dated February 5, 1986.

10. Annexed hereto as Exhibit 9 is a true and correct copy of the Receipt of Department of State for SAC Trading Corp., dated February 6, 1986.

11. Annexed hereto as Exhibit 10 is a true and correct copy of the Certificate of Dissolution of the New York Department of State certifying the Dissolution of SAC Trading Corp. by Proclamation, dated July 3, 2015.

12. Annexed hereto as Exhibit 11 is a true and correct copy of excerpts of the transcript of the December 10, 2014 deposition of Steven A. Cohen taken in this action.

13. Annexed hereto as Exhibit 12 is a true and correct copy of the SAC Trading Corp. Unanimous Written Consent of Sole Shareholder, dated December 29, 1987.

14. Annexed hereto as Exhibit 13 is a true and correct copy of Plaintiff's First Amended Complaint filed in this action on April 7, 2010.

15. Annexed hereto as Exhibit 14 is a true and correct copy of excerpts of the transcript of the January 21, 2015 deposition of Avron I. Brog taken in this action.

16. Annexed hereto as Exhibit 15 is a true and correct copy of excerpts of the transcript of the January 13, 2015 deposition of Martin S. Kera taken in this action.

17. Annexed hereto as Exhibit 16 is a true and correct copy of a letter from Patricia Cohen to the Clerk of the Court regarding *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated March 6, 1991.

18. Annexed hereto as Exhibit 17 is a true and correct copy of the Consent to Change Attorney filed by Tenzer, Greenblatt, Fallon & Kaplan and Jay Goldberg, P.C. in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.) on May 13, 1991.

19. Annexed hereto as Exhibit 18 is a true and correct copy of excerpts of the transcript of the February 13, 2015 deposition of Robert J. Shansky taken in this action.

20. Annexed hereto as Exhibit 19 is a true and correct copy of the Summons with Notice filed in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.) on July 7, 1988.

21. Annexed hereto as Exhibit 20 is a true and correct copy of the Consent to Change Attorney filed by Phillips, Nizer, Benjamin, Krim & Ballon in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.) on September 16, 1991.

22. Annexed hereto as Exhibit 21 is a true and correct copy of excerpts of the transcript of the January 8, 2015 deposition of Scott Lederman taken in this action.

23. Annexed hereto as Exhibit 22 is a true and correct copy of a letter from Scott Lederman to Brett Lurie, dated February 27, 1987.

24. Annexed hereto as Exhibit 23 is a true and correct copy of a letter from Fredrick Sherman to Mr. Hecht, dated January 28, 1987.

25. Annexed hereto as Exhibit 24 is a true and correct copy of a letter from Robert Shansky to Otto Obermaier, dated July 13, 1987.

26. Annexed hereto as Exhibit 25 is a true and correct copy of the Affidavit filed by Patricia Cohen in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated March 20, 1991.

27. Annexed hereto as Exhibit 26 is a true and correct copy of the Affidavit in Opposition filed by Steven A. Cohen in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated May 1, 1991.

28. Annexed hereto as Exhibit 27 is a true and correct copy of the Closing Statement between Benno Schmidt, Seller, and Steven and Patricia Cohen, Purchaser, dated August 19, 1987.

29. Annexed hereto as Exhibit 28 is a true and correct copy of a letter from Robert Shansky to Steven Cohen, dated March 16, 1987.

30. Annexed hereto as Exhibit 29 is a true and correct copy of the James F. Peltz article, *GE, RCA Announce Merger Agreement*, published by the Associated Press on December 11, 1985.

31. Annexed hereto as Exhibit 30 is a true and correct copy of the Minutes of First Meeting of Board of Directors of SAC Trading Corp., dated February 17, 1986.

32. Annexed hereto as Exhibit 31 is a true and correct copy of letter from Brett Lurie to Steven Cohen, dated March 12, 1987.

33. Annexed hereto as Exhibit 32 is a true and correct copy of a letter from Donald Cohen to Brett Lurie, dated January 23, 1986.

34. Annexed hereto as Exhibit 33 is a true and correct copy of a letter from Donald Cohen to Brett Lurie, dated March 6, 1986.

35. Annexed hereto as Exhibit 34 is a true and correct copy of a letter from Donald Cohen to Brett Lurie, dated March 12, 1986.

36. Annexed hereto as Exhibit 35 is a true and correct copy of a letter from Conversion Funding Corp. to Donald Cohen, dated December 8, 1986.

37. Annexed hereto as Exhibit 36 is a true and correct copy of a letter from Conversion Funding Corp. to Donald Cohen, dated January 15, 1987.

38. Annexed hereto as Exhibit 37 is a true and correct copy of the Stipulation Staying All Proceedings filed in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.) on July 20, 1987.

39. Annexed hereto as Exhibit 38 is a true and correct copy of a letter from Plaintiff to Brett Lurie, dated October 14, 2006.

40. Annexed hereto as Exhibit 39 is a true and correct copy of the Employment Agreement between SAC Trading Corp. and Brett Lurie, dated November 5, 1986.

41. Annexed hereto as Exhibit 40 is a true and correct copy of the 1986 W-2 Wage and Tax Statement of Brett Lurie.

42. Annexed hereto as Exhibit 41 is a true and correct copy of the Complaint filed in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated April 13, 1987.

43. Annexed hereto as Exhibit 42 is a true and correct copy of the Notice of Pendency filed in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated April 16, 1987.

44. Annexed hereto as Exhibit 43 is a true and correct copy of the deed for 74-15 35th Avenue, Jackson Heights, New York, dated March 27, 1986.

45. Annexed hereto as Exhibit 44 is a true and correct copy of the deed for 41-15 46th Street, Sunnyside, New York, dated March 27, 1986.

46. Annexed hereto as Exhibit 45 is a true and correct copy of the deed for 41-15 45th Street, 41-35 45th Street, 41-20 46th Street, 41-30 46th Street, Sunnyside, New York, dated March 27, 1986.

47. Annexed hereto as Exhibit 46 is a true and correct copy of the deed for 42-15 43rd Avenue, Sunnyside, New York, dated March 27, 1986.

48. Annexed hereto as Exhibit 47 is a true and correct copy of the deed for 90-10 34th Avenue, Jackson Heights, New York, dated June 3, 1986.

49. Annexed hereto as Exhibit 48 is a true and correct copy of the deed for 488 Ocean Parkway, Brooklyn, New York, dated December 3, 1986.

50. Annexed hereto as Exhibit 49 is a true and correct copy of the Affidavit in Support of Order to Show Cause filed by Brett Lurie in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated May 12, 1987.

51. Annexed hereto as Exhibit 50 is a true and correct copy of the Affidavit in Support of Motion for Summary Judgment and Cancellation of Notices of Pendency filed by Brett Lurie in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated June 30, 1987.

52. Annexed hereto as Exhibit 51 is a true and correct copy of the Answer and Counterclaim filed by Brett Lurie and Conversion Funding Corp. in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated June 30, 1987.

53. Annexed hereto as Exhibit 52 is a true and correct copy of the Closing Documents relating to Steven A. Cohen and SAC Trading Corp. Settlement of Litigation with Brett K. Lurie and Conversion Funding Corp., dated January 27, 1988.

54. Annexed hereto as Exhibit 53 is a true and correct copy of the First Amendment of the Release and Settlement Agreement, dated December 30, 1987.

55. Annexed hereto as Exhibit 54 is a true and correct copy of a letter from Brett Lurie to Steven Cohen attaching a Pro Forma Statement regarding Advances from Steven Cohen and SAC Trading Corp., dated January 27, 1988.

56. Annexed hereto as Exhibit 55 is a true and correct copy of the Memorandum of Law in Support of Motion by BRT Realty Trust filed by BRT Realty Trust in *In re Coronet Capital Company*, No. 90 B 13646 (Bankr. S.D.N.Y.), dated February 15, 1991.

57. Annexed hereto as Exhibit 56 is a true and correct copy of a computer print-out of the September 26, 2000 Order in *Lurie v. Wittner*, No. 99-cv-2425, 99-cv-2426, 228 F.3d 113 (2d Cir.), dated March 15, 2008.

58. Annexed hereto as Exhibit 57 is a true and correct copy of a computer print-out of the Lois Weiss article, *End of an Era as Co-Ops De-Convert*, published by Real Estate Weekly on October 4, 1995, dated August 6, 2008.

59. Annexed hereto as Exhibit 58 is a true and correct copy of a check from Coronet Capital Company to SAC Trading Corp., dated January 27, 1988.

60. Annexed hereto as Exhibit 59 is a true and correct copy of a check from Coronet Capital Company to SAC Trading Corp., dated June 30, 1988.

61. Annexed hereto as Exhibit 60 is a true and correct copy of a check from Coronet Capital Company to SAC Trading Corp., dated August 4, 1988.

62. Annexed hereto as Exhibit 61 is a true and correct copy of a check from Coronet Capital Company to SAC Trading Corp., dated July 6, 1989.

63. Annexed hereto as Exhibit 62 is a true and correct copy of the Summons to Debtor in Involuntary Case filed in *In re Coronet Capital Company*, No. 90 B 13646 (Bankr. S.D.N.Y.) on November 6, 1990.

64. Annexed hereto as Exhibit 63 is a true and correct copy of excerpts of the transcript of the April 23, 2015 deposition of Robert Z. Dobrish taken in this action.

65. Annexed hereto as Exhibit 64 is a true and correct copy of a letter from Julia Perles to Avron Brog, dated July 15, 1988.

66. Annexed hereto as Exhibit 65 is a true and correct copy of Mr. & Mrs. Steven A. Cohen Statement of Financial Condition as of July 1, 1988.

67. Annexed hereto as Exhibit 66 is a true and correct copy of Steven A. and Patricia Cohen's 1982 U.S. Individual Income Tax Return.

68. Annexed hereto as Exhibit 67 is a true and correct copy of Steven A. and Patricia Cohen's 1983 U.S. Individual Income Tax Return.

69. Annexed hereto as Exhibit 68 is a true and correct copy of Steven A. and Patricia Cohen's 1984 U.S. Individual Income Tax Return.

70. Annexed hereto as Exhibit 69 is a true and correct copy of Steven A. and Patricia Cohen's 1985 U.S. Individual Income Tax Return.

71. Annexed hereto as Exhibit 70 is a true and correct copy of Steven A. and Patricia Cohen's 1986 U.S. Individual Income Tax Return.

72. Annexed hereto as Exhibit 71 is a true and correct copy of Steven A. and Patricia Cohen's Projected 1987 U.S. Individual Income Tax Return.

73. Annexed hereto as Exhibit 72 is a true and correct copy of a letter from Steven A. Cohen to Julia Perles, dated August 8, 1988.

74. Annexed hereto as Exhibit 73 is a true and correct copy of a compilation of credit card statements from Steven A. Cohen's American Express Cards.

75. Annexed hereto as Exhibit 74 is a true and correct copy of SAC Trading Corp.'s 1986 U.S. Corporation Income Tax Return.

76. Annexed hereto as Exhibit 75 is a true and correct copy of SAC Trading Corp.'s 1987 U.S. Income Tax Return for an S Corporation.

77. Annexed hereto as Exhibit 76 is a true and correct copy of Steven A. and Patricia Cohen's 1987 U.S. Individual Income Tax Return.

78. Annexed hereto as Exhibit 77 is a true and correct copy of Mr. and Mrs. Steven A. Cohen Statements of Financial Condition, dated March 31, 1985.

79. Annexed hereto as Exhibit 78 is a true and correct copy of Steven and Patricia Cohen Statements of Financial Condition, dated June 1, 1986.

80. Annexed hereto as Exhibit 79 is a true and correct copy of SAC Trading Corp.'s Statement of Operations for the Current Month & Y.T.D. Ended April 30, 1986.

81. Annexed hereto as Exhibit 80 is a true and correct copy of the index of Closing Documents from the Closing Binder relating to Steven A. Cohen and SAC Trading Corp. Settlement of Litigation with Brett K. Lurie and Conversion Funding Corp., dated January 27, 1988.

82. Annexed hereto as Exhibit 81 is a true and correct copy of a letter from Robert Shansky to Avron Brog, dated November 8, 1988.

83. Annexed hereto as Exhibit 82 is a true and correct copy of the Stipulation Cancelling Notice of Pendency filed in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated January, 1988.

84. Annexed hereto as Exhibit 83 is a true and correct copy of the Stipulation filed in *Cohen and SAC Trading Corp. v. Lurie and Conversion Funding Corp.*, No. 8981/87 (N.Y. Sup. Ct.), dated January 27, 1988.

85. Annexed hereto as Exhibit 84 is a true and correct copy of excerpts of the transcript of the May 4, 2015 deposition of Hal Lieberman taken in this action.

86. Annexed hereto as Exhibit 85 is a true and correct copy of the Reply Affirmation of Martin Kera filed in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated May 8, 1991.

87. Annexed hereto as Exhibit 86 is a true and correct copy of the Judgment of Divorce filed in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated March 13, 1990.

88. Annexed hereto as Exhibit 87 is a true and correct copy of the Order to Show Cause for Modification Upward of Child Support and Maintenance filed in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated March 21, 1991.

89. Annexed hereto as Exhibit 88 is a true and correct copy of Steven A. Cohen's Pro Forma 1990 U.S. Individual Income Tax Return.

90. Annexed hereto as Exhibit 89 is a true and correct copy of a letter from Stanford G. Lotwin to Hon. Walter M. Schackman, dated May 20, 1991.

91. Annexed hereto as Exhibit 90 is a true and correct copy of the Decision and Order filed in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated August 6, 1991.

92. Annexed hereto as Exhibit 91 is a true and correct copy of the Amendment to Stipulation of Settlement and Separation Agreement Between Steven A. Cohen and Patricia Cohen, dated January 6, 1992.

93. Annexed hereto as Exhibit 92 is a true and correct copy of the Stipulation Discontinuing Action filed in *Cohen v. Cohen*, No. 62593/90 (N.Y. Sup. Ct.), dated May 14, 1992.

94. Annexed hereto as Exhibit 93 is a true and correct copy of the Complaint filed by Plaintiff in this action on December 16, 2009.

95. Annexed hereto as Exhibit 94 is a true and correct copy of Plaintiff's Privilege Log III, dated July 8, 2015.

96. Annexed hereto as Exhibit 95 is a true and correct copy of a computer print-out of the Department of Correctional Services Inmate Information, Brett K. Lurie, dated September 22, 2006.

97. Annexed hereto as Exhibit 96 is a true and correct copy of Plaintiff's Privilege Logs I and II, dated August 28, 2014.

98. Annexed hereto as Exhibit 97 is a true and correct copy of Plaintiff's Declaration dated November 18, 2014.

99. Annexed hereto as Exhibit 98 is a true and correct copy of an email exchange between Plaintiff and Michael J. Bowe, dated January 24 and 25, 2007.

100. Annexed hereto as Exhibit 99 is a true and correct copy of the Summons and Verified Complaint filed in *Paul Batista and Paul Batista, P.C. v. KLS-Kachroo Legal Services, P.C., Gaytri D. Kachroo, and Patricia Cohen*, No. 10104295 (N.Y. Sup. Ct.), dated March 25, 2010.

101. Annexed hereto as Exhibit 100 is a true and correct copy of the Notice of Motion to Withdraw as Counsel of Record filed by Gaytri Kachroo in this action on June 9, 2010.

102. Annexed hereto as Exhibit 101 is a true and correct copy of the Motion to Admit Counsel Pro Hac Vice filed on behalf of Howard W. Foster in this action on July 1, 2010.

103. Annexed hereto as Exhibit 102 is a true and correct copy of Plaintiff's Second Amended Complaint filed in this action on July 29, 2010.

104. Annexed hereto as Exhibit 103 is a true and correct copy of the Reply Brief for Plaintiff-Appellant filed in *Cohen v. Cohen et al.*, No. 11-cv-1390 (2d Cir.) on November 14, 2011.

105. Annexed hereto as Exhibit 104 is a true and correct copy of excerpts of the transcript of the oral argument in *Cohen v. Cohen et al.*, No. 11-cv-1390 (2d Cir.), dated February 22, 2012.

106. Annexed hereto as Exhibit 105 is a true and correct copy of the Brief and Special Appendix for Plaintiff-Appellant filed in *Cohen v. Cohen et al.*, No. 11-cv-1390 (2d Cir.) on August 1, 2011.

I declare under penalty of perjury that the foregoing is true and correct. Executed in New York, New York on this 18th day of September, 2015.



Martin Klotz